

## **CITY BOARD OF ZONING APPEAL #05007**

**DATE SCHEDULED FOR PUBLIC HEARING:**

**July 29, 2005**

**LOCATION:** Generally located at Oxford Road and St. James Drive.

**ADDRESS:** 7225 Oxford Road

**LEGAL DESCRIPTION:** Lot 9, Block 7, Lincolnshire Estates 1<sup>st</sup> Addition  
(see attached survey)

**APPLICANT:** J. Michael Rierden  
645 M Street #200  
Lincoln, NE 68508  
(402) 476-2413

**LOT AREA:** 0.30 acres, more or less.

**EXISTING LAND USE AND ZONING:** Single-family dwelling      R-1 Residential

**SURROUNDING LAND USE AND ZONING:**

North:	Residential	R-1 Residential
South:	Residential	R-1 Residential
East:	Residential	R-1 Residential
West:	Residential	R-1 Residential

**TYPE(S) OF APPEAL(S):**

1. THIS APPEAL IS DIRECTED TO THE BOARD ALLEGING AN ERROR IN A DETERMINATION.

A. Applicant alleges an error in a determination by an administrative official in that a building permit was issued which violated the applicable setback requirements.

2. THIS APPEAL IS DIRECTED TO THE BOARD RELATIVE TO A VARIANCE.

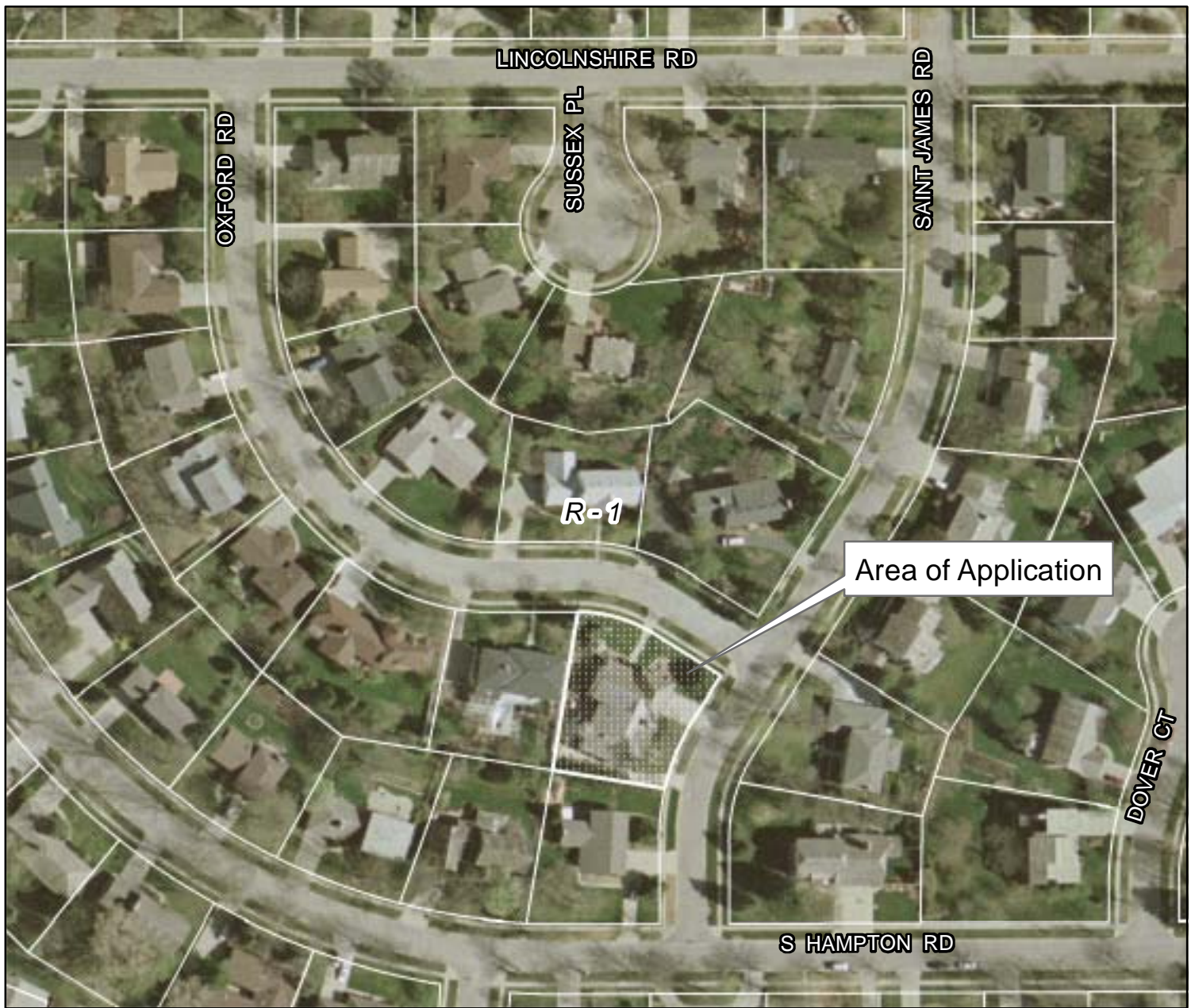
A. Section 27.11.080(a), L.M.C. requires a side yard setback of 10 feet. A variance of the side yard setback from 10' to 7.9' is requested.

B. Section 27.11.080(a), L.M.C. requires a rear yard setback of 24 feet. A variance of the rear yard setback from 24' to 16.8' is requested.

**STAFF FINDINGS:**

1. This request consists of two appeals. The first alleges an error on the part of an administrative official in the issuance of a building permit. The second seeks

- variances for an existing addition constructed within the required side and rear yard setbacks.
2. The house was originally built in 1969 and complied with the setback requirements for the district. In 1974 a building permit was issued to construct an enclosed swimming pool. The building plans showed a detached structure which complied with the setbacks for an accessory structure, and a building permit was approved on that basis. However, when constructed the structure was attached to the house and not in compliance with the building permit. When a structure is within 6' of the principal structure, it is considered a part of the principal structure. The setbacks for a principal structure are greater than those for an accessory structure. Therefore the new structure was located inside the required side and rear setbacks for the R-1 district.
  3. The on-site building inspection of the swimming pool enclosure by the City in 1974 failed to recognize that the addition did not comply with the building permit and the applicable setbacks because it was attached to the house.
  4. In 1993, a building permit was issued to add a second story over the enclosed swimming pool. The City failed to recognize the violations.
  5. The applicant is appealing a determination by an administrative official, claiming an error occurred during the review of the building permit and inspections. The applicant states that the fact that the structure was attached to the house and that different setbacks applied should have been identified during the permit/inspection process in 1974, and again in 1993.
  6. The applicant is also requesting a waiver to the side yard setback from 10' to 7.9', and to the rear yard setback from 24' to 16.8'. A copy of the applicant's survey, prepared April 15, 2005, is attached. The dark-shading indicates those portions of the house that do not comply with setbacks.
  7. The lot is a corner lot, which causes it to have a required front yard along both street frontages. The front yard setback in the R-1 district is 30'. Corner lots are common throughout the city. Rear and side yards are determined different for corner lots where one of the lot lines opposite the two streets may be the required rear yard, and the other lot line the side yard.
  8. The minimum lot area in the R-1 district is 9,000 square feet. This lot is approximately 13,770 square feet.
  9. The lot is typical of other lots with no drastic grade changes nor an atypical lot configuration. The lot is typical of corner lots in Lincoln.



2002 aerial

## Board of Zoning Appeals #05007 7225 Oxford Rd.

### Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
Sec. 34 T10N R7E

